



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 19, 1991

Mr. James T. Russell
Assistant District Attorney
27th Judicial District
P. O. Box 540
Belton, Texas 76513

OR91-578

Dear Mr. Russell:

You ask whether copies of the autopsy reports on the suspect and victims in the recent mass murders in Killeen are subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14052.

You ask whether the requested information is confidential under section 3(a)(1) of the Texas Open Records Act. We conclude that it is not. We note that Bell County does not have a medical examiner, and though the autopsy reports in question were prepared by a medical examiner, such reports were prepared pursuant to an order of the justice of the peace of the location in Bell County where all the bodies were found, and not under the statutory authority of the medical examiner.¹ While records of the justice of the peace are ordinarily exempt from the Open Records Act under section 2(1)(G), the request at hand is for records in the possession of the District Attorney.²

We are aware of no statute which would make the requested information confidential, nor would the common-law doctrine of privacy be applicable. *Moore v.*

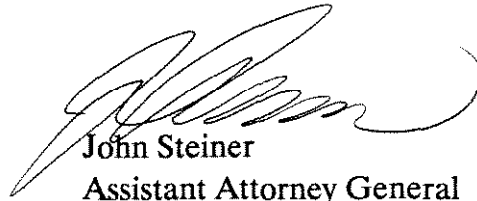
¹Accordingly we need not consider article 49.15 of the Code of Criminal Procedure.

²Similarly, 671.012 of the Health and Safety Code applies to autopsy reports in the possession of a physician, and need not be considered here.

Charles B. Pierce Film Enters., Inc., 589 S.W. 2d 489 (Tex. Civ. App. -- Texarkana 1979, writ ref'd. n.r.e.). Nor would section 3(a)(15) of the Open Records Act be applicable, as you suggest, as these are not records of the Bureau of Vital Statistics. However, you advise that the matter is currently pending presentation to a Bell County grand jury. This being the case, you may withhold the information from public release under section 3(a)(8) so long as there is a law enforcement reason for doing so. Of course, withholding information under section 3(a)(8) is discretionary, and does not make the information "confidential" within the meaning of sections 3(a)(1) or 10(a) of the Open Records Act.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-578.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/lb

Ref.: ID# 14052

Enclosure: Return Document

cc: Mr. George Kuempel
Dallas Morning News
Austin Bureau
1005 Congress, Suite 930
Austin, Texas 78701